IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 27667 of 2005

Between:

Dodda Ramakrishna

..... PETITIONER

AND

The Joint Collector,

Prakasam District,

Ongole and 3 others

.....RESPONDENTS

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ORDER:

Seeking a Mandamus, declaring the proceedings in Rc.CS2/4039/2005, dated 14.12.2005 issued by the 1st respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

It is stated that certain disciplinary proceedings have been initiated against the petitioner, who is a fair price shop dealer of Chakrayapalem village, Addanki Mandal of Prakasam District, on the allegations that the petitioner has committed the following irregularities:

1. That the dealer diverted a quantity of 10.15 qtls of rice intended for AAY cards to black market;
2. That the dealer diverted a quantity of 22 Lts.of K.Oil to the black market;
3. That the dealer has not distributing the rice to AAY cardholders properly;

A show cause notice was issued on 09.10.2004, for which an explanation was filed by the petitioner on 16.11.2004, and thereafter the charges have been enquired into with reference to the explanation. In so far as charges 1 and 2 are concerned, the 2nd respondent held that the charges were made probably by the rival groups and it seems that it is politically motivated and they were not proved. In so far as third charge is concerned, the 2nd respondent held that the said charge is minor in its nature and not major or serious irregularity. But, however, the 2nd respondent imposed a penalty of Rs.1,500/- and restored the authorization of the petitioner, by order dated 25.10.2005. Aggrieved by the same, respondents 3 and 4

are filed an appeal before the 1st respondent and the appellate authority without hearing the petitioner, based on the dropped charges, stayed the order of the 2nd respondent by the impugned order dated 14.12.2005. The said order has been questioned in this writ petition, stating that when the charges were dropped after full fledged enquiry, without there being any material whatsoever and when there are no grave and serious charges pending against the petitioner, granting stay of the order of the

2nd respondent, cannot be just and proper.

Having regard to the facts and circumstances of the case, I am of the opinion that when the petitioner succeeded before the appointing authority, without there being any serious irregularities and diversion of stocks to the black market, granting stay of operation of the order of the appointing authority, without hearing the petitioner, cannot be a just and proper order. Therefore, the impugned order dated 14.12.2005, passed by the 1st respondent, is set aside. The 1st respondent-appellate authority may hear the main appeal and dispose of the same, in accordance with law, after giving a reasonable opportunity to the petitioner as well as to the respondents 3 and 4.

With the above observations, the Writ Petition is allowed. No order as to costs.

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V.ESWARAIAH,J

Dated: 28.12.2005

Dsr

Note:

Issue CC tomorrow

B/o

Dsr